

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

U.S. DISTRICT COURT
GREENEVILLE TN

2008 APR 21 P 3:30

FILED

UNITED STATES OF AMERICA

V.

ANTHONY JACK PERRY

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No. 2:08-MJ-69

MEMORANDUM AND ORDER

On Saturday, April 19, 2008, at 11:15 a.m., the undersigned magistrate judge received a phone call from Assistant United States Attorney Helen Smith, advising the magistrate judge that National Forest Service Law Enforcement Officer Kim Coleman had made a warrantless arrest on the preceding Friday night, April 18, 2008, in a portion of the National Forest in Sullivan County, Tennessee. Because the arrest was made without a warrant, it was necessary to make a determination of probable cause as soon as possible.

AUSA Smith had prepared a criminal complaint which she and Officer Coleman discussed *via* telephone and e-mail. Upon instructions of the magistrate judge, AUSA Smith simultaneously e-mailed a final version of the criminal complaint to Officer Coleman and the magistrate judge at their respective homes. The magistrate judge read the complaint and determined that it stated probable cause to believe that the person arrested, Anthony Jack Perry, committed the offenses of driving under the influence, driving on a revoked license, possession of an open container of alcohol, failure to provide proof of financial responsibility, and improper vehicle registration.

The magistrate judge then telephoned Officer Coleman at her home. The magistrate judge has known Officer Coleman for many years, and he is well familiar with her voice. The magistrate


judge placed Officer Coleman under oath and thereafter read aloud to her the criminal complaint in its entirety. Officer Coleman confirmed that what was read to her (1) matched exactly the copy of the criminal complaint which she then had before her, and (2) the facts stated therein were true.

Based upon Officer Coleman's testimony, the magistrate judge concluded that there was probable cause to believe that Anthony Jack Perry committed the offenses described in the criminal complaint. The magistrate judge accordingly affixed his signature to the criminal complaint at 12:10 p.m. on April 19, 2008.

The magistrate judge instructed Officer Coleman to appear before him on Monday, April 21, 2008, prior to Mr. Perry's initial appearance at 10:30 a.m. Another copy of the criminal complaint was presented to Officer Coleman. After being placed under oath, Officer Coleman compared the criminal complaint presented to her on Monday and confirmed that it was identical in every respect to the one signed by the magistrate judge on Saturday, April 19, 2008. She again testified that the facts stated therein were true. On instructions of the magistrate judge, Officer Coleman signed the second copy of the criminal complaint.

The copy of the complaint signed by the magistrate judge on Saturday, April 19, 2008, is attached to this order as an exhibit.

SO ORDERED:



United States Magistrate Judge